



EXAMINING GROUP: 3652

38550
Customer Number

Patent
Case No.: CGL01/0482US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: LEWIS, Joseph Michael
Application No.: 10/034983 Group Art Unit: 3652
Filed: December 27, 2001 Examiner: James Keenan
Title: **SYSTEM AND METHOD FOR TRANSPORTING AND HANDLING
BULK QUANTITIES OF BULK FEED**

DECLARATION BY MICHAEL LEWIS PURSUANT TO 37 C.F.R § 1.132

I, Michael Lewis, hereby declare as follows:

1. I currently am an Assistant Vice President and the Feed Products Group Manager for the Sweeteners Business Unit at Cargill, Incorporated. I received a Ph.D. in Animal Science from UN-Lincoln and a B.S. and M.S. from Mississippi State Univ. I have been working at Cargill for over 10 years in area of formulating animal feed from grain by-products.

2. I have reviewed the Office action dated August 27, 2004, concerning patent application No. 10/034983. I also have reviewed the references cited therein.

3. The Examiner stated "it would have been obvious for one of ordinary skill in the art at the time the invention to have modified Bostrom et al's process to include moist grain by-products, as this is simply a particular type of grain". I disagree with this conclusion because moist grain by-products are not simply a particular type of grain. Rather, moist-grain by-products are the products that are produced when whole grain is subjected to various processing treatments.

4. More specifically, the present patent application lists various moist grain by-products as follows: "These moist grain by-products include, by way of example, aspirated grain fractions, brewers dried grains, buckwheat middlings, condensed distillers solubles, condensed fermented corn extractives with germ meal bran, corn bran, corn flour, corn germ meal (wet and dry milled), corn gluten feed, corn gluten meal, corn grits, corn distillers dried grains, corn distillers dried grains/solubles, corn distillers dried solubles, grain sorghum distillers dried grains, grain sorghum distillers grains/solubles, grain sorghum distillers dried solubles, grain sorghum flour, barley distillers dried grains, barley distillers dried gains/solubles, barley distillers dried solubles, barley flour, wheat distillers dried grains, wheat distillers dried grains/solubles, wheat distillers dried solubles, wheat flour, hominy feed, malt sprouts, oat groats, oatmeal feed, pearl barley by-products, peanut skins, rice bran, rice polishings, rye middlings, sorghum grain flour partially and partially aspirated gelatinized, wheat bran, wheat shorts, wheat germ meal, whet germ meal defatted, wheat middlings, wheat mill run, and wheat red dog" (page 7 line 28, through page 8 line 15). All of these examples of moist grain by-products contain either portions of grain (meaning some part of the whole grain has by mostly removed, for instance the starch, protein, fiber, or oil has been mostly removed) and/or the grain has been processed so that the intact whole grain is mostly absent. Hence, the handling properties of the moist grain by-products are not necessarily the same as the handling properties of grain and methods of handling grain do not necessarily work when applied to moist grain by-products.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

By *Michael Lewis*
Michael Lewis, Ph.D.

Date 1-27-05